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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/040,117	01/04/2002	Steven Ausnit	769-222 Div.2	1073

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EXAMINER

SIPOS, JOHN

ART UNIT	PAPER NUMBER
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3721

DATE MAILED: 08/01/2003

10

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/040,117

Applicant(s)

AUSNIT, STEVEN

Examiner

John Sipos

Art Unit

3721

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 40-42 and 48-50 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 40-42 and 48-50 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on ____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) ____.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

REJECTIONS OF CLAIMS BASED ON PRIOR ART

The following is a quotation of the appropriate paragraphs of 35 U.S.C. ' 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

Claims 40-42 and 48-50 are rejected under 35 U.S.C. ' 102(b) as being clearly anticipated by the patent to Thomas (5,713,669) or Dobreski (5,669,715). These patents disclose the methods of opening bags that comprise a slider/zipper and a tamper evident structure. Each of these patents disclose bags that comprise a package body, zipper closure with two mating profiles (24/28 and 24/28, respectively), a slider on the closure (32 in both patents) for opening and closing the closure and bag, a tamper evident structure (36/38 in both patents) encasing the zipper closure and perforation line (40 in both patents). The opening process in each patent comprises removing the tamper evident structure along the perforation line and moving the slider to disengage the zipper profiles to open the bag. See column 4, line 6 et seq. of Thomas and column 4, line 21 et seq. of Dobreski.

Claims 40-42 and 48-50 are rejected under 35 U.S.C. ' 102(e) as being clearly anticipated by the patent to Stolmeier (6,257,763). The patent to Stolmeier discloses the method of opening bags that comprise a slider/zipper and a tamper evident structure. This patent

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discloses bags that comprise a package body, zipper closure with two mating profiles (70), a slider on the closure (71) for opening and closing the closure and bag, a tamper evident structure (60) encasing the zipper closure and perforation line (72). The opening process comprises removing the tamper evident structure along the perforation line and moving the slider to disengage the zipper profiles to open the bag. See column 3, line 59 et seq.

Claims 40 and 48 are rejected under 35 U.S.C. ' 102(e) as being clearly anticipated by the patent to Thieman (5,956,924). The patent to Thieman discloses the method of opening bags that comprise a slider/zipper and a tamper evident structure. This patent discloses bags that comprise a package body, zipper closure with two mating profiles (32/34), a slider on the closure (48) for opening and closing the closure/bag and a tamper evident structure (127) encasing the zipper closure. The opening process comprises removing the tamper evident structure and moving the slider to disengage the zipper profiles to open the bag. See column 6, line 6 et seq.

The following is a quotation of 35 U.S.C. ' 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 41,42,49 and 50 are rejected under 35 U.S.C. ' 103(a) as being unpatentable over the patent to Thieman (5,956,924) in view of Hustad (5,456,928). The patent to ^{Thieman}Thomás lacks the use of perforations lines. The patent to Hustad discloses the method of opening bags that comprise a zipper and a tamper evident structure. This patent discloses bags that comprise a

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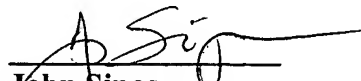
package body, zipper closure with two mating profiles (17/18), and a tamper evident structure (integral 21 or separate tape 31) encasing the zipper closure and perforation line (25,33) to ease the removal of the tamper evident structure. The opening process of Hustad comprises removing the tamper evident structure along the perforation line and moving the slider to disengage the zipper profiles to open the bag. It would have been obvious to one skilled in the art to provide the Thieman bag with perforation lines as shown by Hustad to ease the removal of the tamper evident structure. Note that both the Thieman and Hustad methods use a separate tamper evident tape.

Any inquiry concerning this communication should be directed to **Examiner John Sipos** at telephone number **(703) 308-1882**. The examiner can normally be reached from 6:30 AM to 4:00 PM Monday through Thursday.

The **FAX** number for Group 3700 of the Patent and Trademark Office is **(703) 872-9302**.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mr. Rinaldi Rada, can be reached at (703) 308-2187.

Any inquiry of a general nature or relating to the status of this application should be directed to the Group Receptionist whose telephone number is (703) 308-1148.


John Sipos
Primary Examiner
Art Unit 3721